



**SHARON BULOVA**  
**CHAIRMAN**

COMMONWEALTH OF VIRGINIA  
**County of Fairfax**  
BOARD OF SUPERVISORS

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May 21, 2012

By electronic mail

David F. Snyder, Vice Mayor  
City of Falls Church  
116 Great Falls Street  
Falls Church, VA 22046

Re: Your reported direct appeal to me as Fairfax County Board of Supervisors Chair to break the County's refusal to negotiate in good faith on the future of the Falls Church system, while offering nothing but "confrontation, litigation and confiscation."

Dear Vice Mayor Snyder,

It is my understanding from reports in the press that you stated at a recent Council meeting that "Our doors are open. I want to appeal to Chairman Bulova on the record before the TV camera. Make us a legitimate offer to meet halfway to lead to some sort of accommodation." You reportedly made this statement "after it was pointed out by City Manager Wyatt Shields that while Fairfax had urged a merger of the two systems, it made no offer of compensation to the City."

I want to take this opportunity to correct some key points. As you know, the Fairfax County Board of Supervisors created the Fairfax County Water Authority (Fairfax Water) in 1957 "for the purpose of acquiring, constructing, operating and maintaining an integrated water system for supplying and distributing water in Fairfax County." Fx. Cnty. Bd. Res. Sept. 4, 1957. Fairfax Water still exists for that purpose today. As you also know, Fairfax Water is a separate legal entity from Fairfax County, Virginia, and members of its Board of Directors are appointed by the Fairfax County Board of Supervisors. The Board of Supervisors, however, does not have any involvement in the day-to-day operation of Fairfax Water.

It is important to note, therefore, that it was Fairfax Water, not Fairfax County or its Board of Supervisors, that offered to merge the City's system with Fairfax Water's to create one of the most robust water systems in the region, if not the country. Fairfax Water has repeatedly offered to meet with City officials. I believe a merger of the two systems would be beneficial to customers. I also understand from Fairfax Water, however, that the City never responded to its proposal, pushing ahead instead with a plan to sell the City's water system to the highest bidder.

I believe that the merger of the City's system with Fairfax Water's would not only lower rates for both your residents and ours, but if you sell to the "highest bidder," rates for all your customers very well may increase substantially. An investor-owned utility would have to charge higher rates to recover not only its purchase cost, but also the profit margin and tax obligations that a governmental utility like the City and Fairfax Water do not have.

I continue to believe that combination between the Falls Church and Fairfax Water systems would also avoid the major legal impediments to a private sale of the City's water system. As you know, Earl Stockdale, the Chief Council for the Army Corp of Engineers, issued a legal opinion on Thursday, May 17, 2012, concluding on behalf of the Corps that the Washington Aqueduct is not permitted to sell water to a non-governmental entity under the 1947 law that authorized the sale of water to the City of Falls Church. (Pub. L. 118, 80th Congress, 161 Stat. 181.) That conclusion restates what the Corps said nearly 50 years ago in a 1963 legal opinion. In addition, Virginia law does not permit the State Corporation Commission to authorize the operation of an investor-owned utility in Fairfax County without the approval of the Fairfax County Board of Supervisors. I do not believe my fellow Board members would be able to support higher water rates from a for-profit supplier, nor believe that action would be in the best interest of the 120,000 Fairfax County citizens and businesses that the City currently serves.

For all of these reasons, I hope that the City Council decides to do the right thing for the benefit of all of our respective constituents. A sale to the highest bidder is not in your customers' interests. I remain open to speaking with you further about this, and I know that Fairfax Water does as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon Bulova". The signature is fluid and cursive, with the first name "Sharon" written in a larger, more prominent script than the last name "Bulova".

Sharon Bulova  
Chairman

cc: Members, Fairfax County Board of Supervisors  
Nader Baroukh, Mayor,  
Johannah Barry, Council Member,  
Robin S. Gardner, Council Member,  
Ira Kaylin, Council Member,  
Ron Peppe, Council Member,  
Lawrence Webb, Council Member,  
Charles Murray, General Manager, Fairfax Water,  
Edward L. Long, Jr. Fairfax County Executive